

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

ROY C. JOHNSON, et al.,

Plaintiffs,

vs.

CITY OF TULSA, and
FRATERNAL ORDER OF POLICE,
LODGE NO. 93

Defendants.

Case No. 94-CV-39-TCK-FHM

OPINION AND ORDER

The Motion for Protective Order [Dkt. 1476] filed by Defendant City of Tulsa (City) is before the court for decision. The motion presents the court with an unusual request for relief: “the City respectfully requests that this Court . . . enter a protective order providing guidance and making any necessary rulings and determinations in respect to the City of Tulsa’s response to the Open Records Act Request.” [Dkt. 1476, p. 2]. The other parties to this case did not file any response to the motion, but a response was filed by World Publishing Company (World). [Dkt. 1477]. The City filed a reply and the court held a hearing on the motion.

At the hearing the City essentially argued that the motion was an attempt to make sure that it was complying with its obligations under LCvR 16.2 and the Oklahoma Open Records Act by withholding documents under LCvR 16.2 from its response to the World’s Open Records Act request. The World did not disagree that documents covered by LCvR 16.2 were confidential and therefore exempt from disclosure under the Oklahoma Open Records Act, but expressed concerns that entry of a broad protective order would restrict

the World's right to gather and publish information about the case or to litigate issues under the Oklahoma Open Records Act.

At the time of the hearing it was unclear to the World whether the City had fully responded to its Open Records Act request. Subsequent to the hearing, the City sent a letter to the World stating that it had fully complied with the request with the exception of documents protected by the attorney-client privilege or LCvR 16.2. The documents withheld under LCvR 16.2 were also provided to the court for *in camera* review.

The undersigned concludes that the City's motion for protective order should be denied. It is not clear that there is any dispute between the City and the World. The World has not contested the City's decision to withhold documents based on LCvR 16.2 there is, therefore, no controversy presented and no occasion for the court to make "any necessary rulings and determinations in respect to the City of Tulsa's response to the Open Records Act request." [Dkt. 1476, p. 2]. Moreover, it is not clear that this court is the appropriate forum to make that determination in the first instance. As for the City's request for "guidance," the undersigned has reviewed the documents withheld under LCvR 16.2 and finds that the City has a good faith reasonable basis to withhold the documents and contest their release in any appropriate proceeding.

The Motion for Protective Order [Dkt. 1476] filed by Defendant City of Tulsa is DENIED.

SO ORDERED this 30th day of March, 2010.


FRANK H. MCCARTHY
UNITED STATES MAGISTRATE JUDGE